

ORDINANCE NO. 46-257

AN ORDINANCE AMENDING SECTIONS 3.40.020, 3.40.030, 3.40.035, 3.40.040, 3.40.060, 3.40.070, 3.40.090, 3.40.100 AND 3.40.105 AND CREATING SECTION 3.40.150 OF THE CODE OF THE CITY OF WICHITA, KANSAS, ALL PERTAINING TO ALARM SYSTEMS AND REPEALING THE ORIGINALS OF SECTIONS 3.40.020, 3.40.030, 3.40.035, 3.40.040, 3.40.070, 3.40.090 AND 3.40.105.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.40.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Definitions. As used in this chapter, the following words shall have the following meanings:

(a) ‘Alarm administrator’ means the person designated by the chief of police to monitor alarm business activities as provided in this chapter.

(b) ‘Alarm business’ means any business operated by a person who engages in the activity of altering, installing, leasing, maintaining, repairing, or servicing an alarm system or fire alarm system or which causes any of these activities to take place. Such term shall also include alarm servicing companies who engage in the activity of monitoring or responding to alarm systems.

(c) ‘Alarm service company’ means the person who shall be responsible for determining that an alarm system has been activated and notifying the communications center of the alarm activation.

(d) 'Alarm system means an assembly of equipment or devices or a single device arranged to signal the presence of a hazard requiring urgent attention and to which law enforcement, fire or emergency medical personnel are expected to respond; provided, however, that this term includes externally audible and/or visual on-premises alarm systems but does not include smoke detectors and other alarms designated to merely give internal on-premises notification of an alarm condition.

(e) 'Automatic dialing device' means an alarm system which automatically sends over regular telephone lines, by direct dialing or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation the alarm system is designed to detect.

(f) 'Central station' means an office to which alarm system signals are transmitted for an operator to monitor and notify the communications center of the need for an emergency response by law enforcement, fire or emergency medical personnel.

(g) 'Chief of police' means the chief of police of the city or a designated representative.

(h) 'City' means the city of Wichita, Kansas.

(i) 'City manager' means the city manager of the city or a designated representative.

(j) 'City treasurer' means the city treasurer of the city or a designated representative.

(k) 'Communications center' means the Sedgwick County department of emergency communications.

(l) 'Direct connect' means an alarm system which has the capability of transmission and reception of alarm system signals directly to the communications center.

(m) 'Director of emergency communications' means the director of the Sedgwick County department of emergency communications, or a designated representative.

(n) 'Duress or holdup alarm' means an alarm activated by the intentional act of a person in order to summon law enforcement personnel.

(o) 'Emergency medical personnel' means employees of the Sedgwick County emergency medical service.

(p) 'External audible and/or visual on-premises alarm system' means an alarm system designed to emit audible and/or visual signals at or on the premises upon which the alarm system is installed and which causes notification of such alarm system activation to be made to the communications center.

(q) 'False alarm' means the activation of an alarm system in the city resulting in an urgent response by law enforcement, fire or emergency medical personnel when a situation requiring an urgent response does not, in fact, exist. A false alarm may be the result of, but not limited to, mechanical or electronic failure, malfunction, improper installation, improper adjustment, accidental tripping, misoperation, misuse, defect or negligence of a person.

a. Provided, however, if an alarm signal is caused by violent conditions of nature or other circumstances not reasonably subject to control by the alarm user or alarm business, it shall not be deemed a false alarm for purposes of this chapter;

b. Provided, further, that a system designed to be used to report a robbery or holdup when used for any other purpose shall be considered a false alarm hereunder.

(r) 'Fire alarm system' means an alarm system designed to signal the presence of a hazard requiring urgent attention and to which fire personnel are expected to respond.

(s) 'Fire personnel' means employees of the Wichita fire department.

(t) 'Governmental building alarm system' means any alarm system installed in any location owned or used by the United States government, the state and its political subdivisions or any agencies thereof.

(u) 'Law enforcement alarm system' means an alarm system designed to signal the presence of a hazard requiring urgent attention and to which law enforcement personnel are expected to respond.

(v) 'Law enforcement personnel' means any person vested by law with a duty to maintain public order or to make arrests for violations of the laws of the state or ordinances of the city and includes regular and reserve personnel of the Wichita police department.

(w) 'Medical alarm system' means an alarm system designed to signal the presence of a hazard requiring urgent attention and to which emergency medical personnel are expected to respond.

(x) 'Monitor' means the person who shall be responsible for determining that an alarm system has been activated and notifying the communications center of the alarm activation.

(y) 'Multiple alarm system' means any of the following:

a. Separate structures each having their own alarm system which are located at the same street address and are owned by the same person or business; or

b. A single structure which has more than one alarm business monitoring alarms within the structure.

(z) 'Person' means any person, firm, partnership, association, corporation, company or organization of any kind.

(aa) 'User' means any person who has a functioning alarm system on premises under the person's control."

SECTION 2. Section 3.40.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"License required. (a) It is unlawful for any person to engage in the operation of an alarm business within the city without having first obtained a license to operate such a business from the city treasurer.

(b) It is unlawful for any person to engage in altering, installing, maintaining, repairing or servicing an alarm system within the city limits, or causing the same to take place without having been certified for the particular classification of system involved."

SECTION 3. Section 3.40.035 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Certifications--Persons engaged in installation or repair of alarm systems. (a) Applications for certification as required by Section 3.04.030(b) shall be made to the central inspection division which shall be

responsible for conducting an examination of the applicant pursuant to the standards and classifications set forth by the National Burglar and Fire Alarm Association. In addition to the certification requirements set forth above, individuals altering, installing, maintaining, repairing or replacing fire alarm systems must be NICET II, NICET III or NICET IV certified for fire alarm systems. The central inspection division may waive examination of an applicant who has been examined by and holds a current certificate from the National Burglar and Fire Alarm Association or is NICET III or NICET IV certified for fire alarm systems.

(b) The fee for examination and certification shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificate. This fee shall be paid to the central inspection division when application for certification is made.”

SECTION 4. Section 3.40.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“License application--Form and content. Any person wanting to obtain a license to operate an alarm business in the city shall make application on a form provided therefor to the city treasurer. Said application shall be verified, accompanied by the required application fee and contain as a minimum the following information:

- (1) Date of application;
- (2) Name, address and telephone number of the business and type of business organization (individual, partnership or corporation). If an individual, the name, date of birth, race, sex, address and telephone number, if a partnership, the

names, dates of birth, race, sex, addresses and telephone numbers of all partners; if a corporation, the names, dates of birth, race, sex, addresses and telephone numbers of the officers and the state of incorporation;

(3) If the business is located outside Sedgwick County, the name, address and telephone number of the person located within Sedgwick County responsible for repair and maintenance of the alarm systems;

(4) A list of all felony convictions of any person required to be named on the application;

(5) A statement that service for the alarm systems leased or installed by the alarm business will be offered on a twenty-four-hour, seven-day-a-week basis;

(6) A statement that the applicant and all agents, representatives and employees of the applicant will at all times comply with all laws of the United States and state, ordinances of the city and resolutions of Sedgwick County in the operation of the alarm business;

(7) A copy of such person's certification as required by Sections 3.40.030(b) if such person is also engaged in the business of altering, installing, maintaining, repairing or servicing alarm or fire alarm systems. For purposes of this subsection, a license may be issued to any firm, co-partnership or corporation of which at least one active member or officer who devotes full-time to the firm, co-partnership or corporation has received such certification.”

SECTION 5. Section 3.40.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**~~“Investigation of application--Issuance of license--Posting license--
License nontransferable--Term--Renewal.~~** (a) Upon receipt of an

application for an alarm business license and payment of the required fee, the city treasurer shall refer the application to the chief of police for investigation and recommendation regarding issuance of the license. Approval shall be recommended so long as the application is satisfactorily completed and no owner, manager, partner, director or officer of the business has ever been convicted of a felony.

(b) Up on favorable recommendation of the chief of police, the city treasurer shall issue the applicant an alarm business license on such form as the city treasurer shall determine. The issued license shall be displayed and available for inspection on the business premises of the licensee.

(c) No license issued hereunder shall be transferable and any such licenses shall be issued for a period of one year from date of issuance. Renewal of such license shall be accomplished in the same manner as issuance of the initial license.”

SECTION 6. Section 3.40.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Required operational practices. Each alarm business licensed hereunder will conduct its operations in compliance with the following standards and practices:

(1) If an alarm system, or any of its component parts operates at fifty or more volts, the installation must be in accordance with Title 19 of this code.

(2) Fire alarm systems must be installed in accordance with the provisions of Titles 15, 18 and 19 of this code.

(3) When an alarm business leases or installs an alarm system, it shall offer service either directly or through an agent for that alarm system on a twenty-four hour, seven-day-a-week basis for the purposes of repairing or servicing the system to correct any malfunctions which may occur. This information shall be provided in writing at the time of the lease or installation. The alarm business shall have a person located within Sedgwick County responsible for repair and maintenance of the alarm system.

(4) When an alarm business leases or installs an alarm system, he alarm user shall be provided written instructions on how to operate the system and any user maintenance which may be required. These instructions shall be clear, concise and in language the alarm user can read and understand.

(5) When an alarm business leases or installs an alarm system for which the alarm user elects to have law enforcement personnel respond, it shall be responsibility of the alarm business to:

(a) Provide the alarm user, at the time of lease or installation of the alarm system, a written copy of the city of Wichita's false alarm penalties and procedures. The alarm user shall acknowledge the penalty procedures. The alarm business shall forward to the city treasurer a copy of these procedures signed by the alarm user acknowledging that such user understands how to operate the alarm system and the billing system

for false alarms as set forth in Section 3.40.090 of the Code to the City of Wichita and any amendments thereto;

(b) Register each alarm system monitored by the business, prior to commencement of monitoring, with the city treasurer. Such business shall keep this registration current by notifying the city treasurer of the termination of monitoring and changes in ownership of property. If an alarm user changes service companies, the new provider shall re-register the user with the city treasurer's office. Registration shall be accomplished by use of a form provided by the city treasurer. A ten dollar fee shall be assessed for each registration form. The city treasurer shall have the right to audit the information provided to verify its accuracy;

(c) An alarm service company, at the time of an alarm, shall attempt to contact the user by telephone to verify that the alarm is valid;

(d) An alarm service company, when contacting the communication center regarding an alarm, shall provide the alarm user's name, address and permit number.”

SECTION 7. Section 3.40.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Response fee. (a) Except as otherwise provided in this chapter, the user of an alarm system to which law enforcement personnel or fire personnel are requested to respond, shall be charged a response fee of forty dollars per alarm. If such alarm is a duress or holdup alarm, such fee shall be fifty dollars for each residential alarm and seventy dollars for each business alarm; provided, however, no response fee shall be charged:

(1) For the first alarm each calendar year;

(2) When it is reasonable to assume that the alarm was due to violent conditions of nature including an electrical storm which have been verified by the National Weather Service to have been in the area where the alarm system is located at the time of the activation;

(3) Cable, line or power failure which has been specifically verified by the appropriate utility company serving the alarm location;

(4) For those alarms where the communications center is notified within four minutes of receipt of notification of the alarm that emergency medical, law enforcement or fire personnel are not required;

(5) For those alarms resulting from valid situations requiring an urgent response by law enforcement, fire or emergency medical personnel as verified by a report filed by such personnel; or

(6) For those alarms received by a medical alarm system.

(b) If an alarm is received by the communications center from an alarm system which has not been registered with the city, as required in Section 3.40.070, an administrative penalty of one hundred fifty dollars shall be assessed against the alarm business for having failed to register the system. Such penalty shall be in addition to the alarm charges assessed to the alarm user. Both the alarm user and alarm business shall be notified in writing that the alarm business is not in compliance with the city's ordinances.

(c) Should a disagreement arise over whether any particular response fee or administrative penalty should be assessed the facts surrounding the circumstances of the alarm activation shall, within thirty days of the date of the

first invoice for the alarm, be presented in writing by the alarm user or alarm business along with a ten dollar administrative fee to the alarm administrator. The alarm administrator shall promptly forward the written fee dispute to the chief of police. The chief of police shall, after consideration of all the information presented, determine whether a response fee should be assessed. In the event of determination that no response fee should be assessed, the ten dollar administrative fee shall be refunded to the alarm user.

(d) If disagreement still exists after consideration by the chief of police, the facts surrounding the alarm activation shall be presented to the city manager who shall, after consideration of all the information presented, determine whether a response fee should be assessed. All such disagreements must be presented in writing by the alarm user to the city manager within thirty days after the date of notification of the chief of police's determination under subsection (b) of this section that a response fee is due as a result of the particular alarm being questioned; otherwise the determination by the alarm administrator shall be deemed correct.

(e) In making the determinations required by subsections (c) and (d) of this section, the chief of police and the city manager shall give consideration to the following, if presented, in addition to all other information presented:

- (1) The purpose of this chapter as expressed in Section 3.40.010 of this code;
- (2) The alarm user's history of valid and false alarms;
- (3) Violent conditions of nature, including electrical storms, existing at the time of the activation;

(4) Other circumstances not reasonably subject to control by the alarm user or alarm business;

(5) Information from utility companies concerning cable, line or power failures or problems;

(6) Information from law enforcement, fire, or emergency medical personnel who responded to the alarm activation; and

(7) The presence or absence of any direct or indirect evidence that a situation requiring an urgent response existed at the time of the alarm activation.

(f) The response fee under this section shall be due and payable in the office of the city treasurer within thirty days after receipt of notification that such fee is due. Further, in the event the fee is not paid within sixty days of such notification, a late fee in the amount of ten dollars per alarm call shall be added to the amount due. An additional late fee of ten dollars will be assessed on each response fee which remains unpaid 90 days following notification. After ninety days, following notice to the alarm user, the account may be turned over for collection.

The alarm user and any alarm servicing company will be notified by certified mail that the communication center will not respond to further alarms from the system unless the delinquent fee and late charges are paid.”

SECTION 8. Section 3.40.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Direct connection prohibited--Exceptions--Annual fee--Response fee.” (a) All direct connections of alarm systems to the communications

center shall be prohibited except governmental building alarm systems and those contemplated by Parts 21, 216, 326 and 563a of Title 12 of the Code of Federal Regulations. For each such direct connection permitted by this section, except governmental building alarm systems, a nonrefundable fee of five hundred dollars for each main location of the facilities covered above, two hundred fifty dollars for each branch location, and two hundred dollars for each automatic teller machine (ATM) each twelve months shall be due and payable by the alarm system user to the city treasurer prior to the start of the twelve-month period in which the direct connection is to be maintained. Failure to pay the required annual fee shall be reason for termination of the direct connection.

(b) Except as otherwise provided in this chapter, the user of an alarm system that transmits an alarm to which emergency medical, law enforcement or fire personnel are requested to respond shall be charged a response fee of forty dollars per alarm. Provided, however, no such response fee shall be made:

- (1) For alarms from governmental building alarm systems;
- (2) When it is reasonable to assume that the alarm was due to violent conditions of nature including an electrical storm which have been verified by the National Weather Service to have been in the area where the alarm system is located at the time of the activation;
- (3) Cable, line or power failure which has been specifically verified by the appropriate utility company serving an alarm location;
- (4) For those alarms where the communications center is notified within four minutes of receipt of the notification of the alarm

that emergency medical, law enforcement or fire personnel are not required; or

(5) For those alarms resulting from valid situations requiring an urgent response by law enforcement, fire or emergency medical personnel as verified by a report filed by such personnel.

(c) Should a disagreement arise over whether any particular response fee should be assessed, the disagreement shall be resolved by the procedure provided in Section 3.40.090(b), (c) and (d).

The response fee under this section shall be due and payable in the office of the city treasurer within thirty days after receipt of notification that such fee is due. Further, in the event the fee is not paid within sixty days of such notification, a late fee in the amount of ten dollars shall be added to the amount due. An additional late fee of ten dollars will be assessed on each response fee which remains unpaid 90 days following notification. After ninety days, following notice to the alarm user, the account may be turned over for collection.

The alarm user and any alarm servicing company will be notified by certified mail that the communications center will not respond to further alarms from the system until the delinquent fee and late charge are paid.”

SECTION 9. Section 3.40.105 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Duress or holdup alarms. (a) The activation of a duress or holdup alarm in the absence of the condition for which the alarm is designated shall be considered a false alarm, and a false alarm fee shall be assessed the user of such alarm system according to the following schedule:

(1) For nonresidential alarm systems a fee of seventy dollars for each false alarm;

(2) For residential alarm systems a fee of fifty dollars; provided, however, no false alarm fee shall be made for those duress or holdup alarms where the communications center is notified within four minutes of receipt of the notification of the duress or holdup alarm that law enforcement personnel are not required.

(b) Should a disagreement arise over whether any particular alarm should be considered a false alarm hereunder, the disagreement shall be resolved by the procedure provided in Section 3.40.090(c) through (e).

(c) The false alarm fee under this section shall be due and payable in the office of the city treasurer within thirty days after receipt of the notification that such fee is due. Further, in the event the fee is not paid within sixty days of such notification, a late fee in the amount of ten dollars shall be added to the amount due. An additional late fee of ten dollars will be assessed on each response fee which remains unpaid 90 days following notification. After ninety days, following notice to the alarm user, the account may be turned over for collection. The alarm user and any alarm servicing company will be notified by certified mail that the communication center will not respond to further alarms from the system until the delinquent fee and late charge are paid.”

SECTION 10. Section 3.40.150 of the Code of the City of Wichita, Kansas, is created to read as follows:

‘Enforcement. The Wichita Police Department, Wichita Fire Department and the Office of Central Inspection of the City of Wichita and the

authorized representatives of such departments shall be responsible for the enforcement of all provisions of this chapter.”

SECTION 11. The originals of Sections 3.40.020, 3.40.030, 3.40.035, 3.40.040, 3.40.060, 3.40.070, 3.40.090, 3.40.100, and 3.40.105 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 12. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 19th day of October, 2004.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law